

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

SYMBOL TECHNOLOGIES, INC.,  
a Delaware Corporation,

Plaintiff,

V.

INTERMEC TECHNOLOGIES CORP.,  
a Washington Corporation,

Defendant.

C.A. No. 05-147-SLR

## DEMAND FOR JURY TRIAL

**REPLY OF INTERMEC TECHNOLOGIES CORP. TO THE  
COUNTERCLAIMS OF SYMBOL TECHNOLOGIES, INC.**

Intermec Technologies Corp. (“Intermec”), by and through its undersigned attorneys, replies to the counterclaims of Symbol Technologies, Inc. (“Symbol”) as follows:

## **JURISDICTION AND VENUE**

60. Intermec admits that this action arises under the Patent Laws of the United States, 35 U.S.C. §§ 101, *et seq.* and the Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202.

61. Intermec admits that this Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1338(a), and 2201(a).

62. Intermec admits that this Court has personal jurisdiction over it.

63. Intermec admits that venue is proper in this District.

## PARTIES

64. Upon information and belief, Intermec admits the allegations in paragraph 64 of Symbol's counterclaims.

65. Intermec admits that it is a Washington corporation with a principal place of business at 6001 36th Avenue West, Everett, Washington 98203.

**EXISTENCE OF A JUSTICIABLE CONTROVERSY**

66. Intermec admits that U.S. Patent No. 5,349,678 (“the ‘678 patent”) is entitled “Versatile RF Data Capture System,” and was issued on September 20, 1994.

67. Intermec admits that U.S. Patent No. 5,568,645 (“the ‘645 patent”) is entitled “Versatile RF Data Capture System,” and was issued on October 22, 1996.

68. Intermec admits that U.S. Patent No. 5,987,499 (“the ‘499 patent”) is entitled “Versatile RF Data Capture System,” and was issued on November 16, 1999.

69. Intermec admits that U.S. Patent No. 5,892,971 (“the ‘971 patent”) is entitled “Portable Data Processing Device Having An Indicia Reader And A Multi-Tasking Operating System Capable Of Executing Battery Monitoring Instructions While Concurrently Executing Application Programs,” and was issued on April 6, 1999.

70. Intermec admits that U.S. Patent No. 5,598,487 (“the ‘487 patent”) is entitled “Hand-Held Data Entry System Removable Signature Pad,” and was issued on January 28, 1997.

71. Intermec admits that U.S. Patent No. 6,621,942 B1 (“the ‘942 patent”) is entitled “Data Capture Apparatus With Handwritten Data Receiving Component,” and was issued on September 16, 2003.

72. Intermec admits the allegations in paragraph 72 of Symbol’s counterclaims.

73. Intermec admits the allegations in paragraph 73 of Symbol’s counterclaims.

74. Intermec admits the allegations in paragraph 74 of Symbol's counterclaims.

**FIRST CLAIM FOR RELIEF AGAINST INTERMEC**  
**(Declaratory Judgment of Invalidity of the '678 Patent, the '645 Patent, the '499 Patent, the '971 Patent, the '487 Patent and the '942 Patent)**

75. Intermec repeats and re-alleges its responses to the allegations in paragraphs 60-74 (not paragraphs 58-72) of Symbol's counterclaims as if fully set forth herein.

76. Intermec denies the allegations in paragraph 76 of Symbol's counterclaims.

77. Intermec denies the allegations in paragraph 77 of Symbol's counterclaims.

78. Intermec denies the allegations in paragraph 78 of Symbol's counterclaims.

79. Intermec denies the allegations in paragraph 79 of Symbol's counterclaims.

80. Intermec denies the allegations in paragraph 80 of Symbol's counterclaims.

81. Intermec denies the allegations in paragraph 81 of Symbol's counterclaims.

**SECOND CLAIM FOR RELIEF AGAINST INTERMEC**  
**(Declaratory Judgment of Non-infringement of the '678 Patent, the '645 Patent, the '499 Patent, the '971 Patent, the '487 Patent and the '942 Patent)**

82. Intermec repeats and re-alleges its responses to the allegations in paragraphs 60-74 (not paragraphs 58-72) of Symbol's counterclaims as if fully set forth herein.

83. Intermec denies the allegations in paragraph 83 of Symbol's counterclaims.

84. Intermec denies the allegations in paragraph 84 of Symbol's counterclaims.

85. Intermec denies the allegations in paragraph 85 of Symbol's counterclaims.

86. Intermec denies the allegations in paragraph 86 of Symbol's counterclaims.

87. Intermec denies the allegations in paragraph 87 of Symbol's counterclaims.

88. Intermec denies the allegations in paragraph 88 of Symbol's counterclaims.

### **PRAYER FOR RELIEF**

WHEREFORE, Intermec prays that the Court enter judgment:

- (a) Denying Symbol any relief on its counterclaims;
- (b) Declaring the case to be an exceptional case under 35 U.S.C. § 285, and awarding Intermec its reasonable attorneys' fees and costs;
- (c) Awarding Intermec its costs; and
- (d) Granting Intermec such other and further relief as the Court deems just and proper.

MORRIS, NICHOLS, ARSHT & TUNNELL

/s/ Jack B. Blumenfeld

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May 2, 2005

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CERTIFICATE OF SERVICE

I, Jack B. Blumenfeld, hereby certify that on May 2, 2005 I electronically filed Reply of Intermec Technologies Corp. to the Counterclaims of Symbol Technologies, Inc. with the Clerk of the Court using CM/ECF, which will send notification of such filing(s) to the following:

Karen L. Pascale  
Bouchard, Margules & Friedlander

I also certify that copies were caused to be served on May 2, 2005 upon the following in the manner indicated:

**BY HAND**

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